



TOWN OF TYNGSBOROUGH

Office of the Board of Selectmen

Town Offices

25 Bryants Lane

Tyngsborough, MA 01879

Tel: (978) 649-2300 Ext. 100 | Fax: (978) 649-2320

Board of Selectmen Meeting Minutes

APPROVED

Monday, November 4, 2013 at 6:00 P.M.

Community Room, Town Offices, 25 Bryants Lane

Members Present: Selectman Rick Reault, Selectwoman Karyn Puleo, Selectman Robert Jackson, Selectman Allen Curseaden, Selectman Corliss Lambert.

Staff Present: Town Administrator Michael Gilleberto and Admin Assistant Therese Gay

The listing of matters are those reasonable anticipated by the Chairman which may be discussed at the meeting. Not all items listed may in fact be discussed, and other items not listed may also be brought up for discussion to the extent permitted by law. Chairman Puleo read the following: "The following meeting is being recorded and broadcast through our local cable access channels on Comcast and Verizon FIOS. A recording of this meeting will also be available for viewing on our town's website - tyngsboroughma dot gov. Also, after instruction from the State Fire Marshall and the Tyngsborough Fire Chief, in the event of an emergency, there is an exit to my left and directly across from me, along the back wall."

1. 6:00 PM Open Meeting/Pledge of Allegiance/Board Introduction/Read Agenda

2. Meeting Minutes

A. Regular Session Meeting Minutes for Approval

1. Monday, October 7, 2013 – Regular Session

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to approve the Minutes of Monday October 7, 2013.

2. Monday, October 21, 2013 – Regular Session

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to approve the Minutes of Monday October 21, 2013.

B. Regular Session Meeting Minutes for Approval but not Release

1. Monday, October 7, 2013 – Executive Session

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to approve and not release the Executive Session of Monday October 7, 2013.

2. Monday, October 21, 2013 – Executive Session

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to approve and not release the Executive Session of Monday October 21, 2013.

3. 6:05 PM Dog Hearing – Pendergast

The Board Chairman opened the hearing at 6:15PM. Board Chairman, Karyn Puleo, will preside in the hearing of a dog complaint by Patricia Pendergast concerning a dog named Luna owned or kept by Caitlin Pendergast. The Chairman invited Mrs. Patricia Pendergast and Ms. Caitlin Pendergast to come forward and be seated at the table.

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to waive the reading of the notice of hearing.

The Chairman read the procedures for conducting this evenings hearing. 1) The Board Clerk shall request all witnesses be sworn in; 2) No person shall address the Board unless recognized by the Chair and/or Town Counsel; 3) Each party will have the opportunity to present facts orally and to submit documents; 4) The rules of evidence observed by the courts will not be observed; 5) Only

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credible evidence introduced at this hearing and made part of the record shall be considered by the Board in making a decision; 6) The Town Counsel will conduct the hearing; 7) The complainant will proceed first and present her facts; 8) The Animal Control Officer and the Police Department witness will present their facts; 9) The dog owner or keeper will present the owner's facts; 10) The complainant and/or the dog owner may request the Town Counsel to ask questions of the witnesses; 11) The complainant and/or dog owner may request that their witnesses present testimony; 12) The complainant and dog owner may respond to the other's testimony; 13) After each witness has testified and upon recognition by the Chair, and/or Town Counsel, members of the Board may direct appropriate questions during the hearing; 14) The Chair and/or the Town Counsel will have then discretion to vary the order of presentations of evidence to expedite the hearing and to focus on specific issues or facts; 15) the evidence presented should not be repetitious, irrelevant, or immaterial; 16) When the evidentiary portion of the hearing is completed, the Board will vote to close the evidentiary portion of the hearing.

The Board's Clerk sworn in Mrs. Patricia Pendergast, Ms. Caitlyn Pendergast, Police Chief Richard Howe and Animal Control Officer David Robson.

Town Counsel declared that Ms. Caitlin Pendergast stipulated that she is the owner of Luna.

Town Counsel asked that Mrs. Patricia Pendergast give a step by step account relevant to the three incidents that occurred on May 14, 2012; the Summer of 2013; and September 8, 2013 (Exhibit A).

Mrs. Pendergast stated that on May 14, 2012 she returned home to find the dogs barking, she let the dogs out to go do their business, at that time a large dog came through the hedges and picked up one of the dogs (Freddie) and injuring the dog to the point of requiring surgery. The dog was about 20 feet outside the door. This occurred at 3PM Mrs. Pendergast observed Luna came crashing through the hedges took her dog and shook the dog.

Town Counsel how long did it take Ms. Caitlin Pendergast to get to Luna?

Mrs. Patricia Pendergast answered -2 minutes.

Mrs Pendergast was yelling at the dog to let the dog down, Ms. Caitlin Pendergast came over and told Luna to let the dog go, the dog was let go and he ran into the house. Mrs Pendergast ran in and called Ms. Caitlin Pendergast.

Town Counsel asked how long between attack and the call to Ms. Caitlin Pendergast?

Mrs. Patricia Pendergast answered - 10 minutes.

Mrs. Patricia Pendergast asked Ms Caitlin Pendergast if she wanted to see the injuries.

Ms. Caitlin Pendergast answered no.

Town Counsel was medical payment spoken about?

Mrs. Pendergast was told by Ms. Caitlin Pendergast's Mom that Luna was a rescue dog and won't be the home long.

Town Counsel was the incident reported to the Animal Control Officer in 2013?

Mrs. Pendergast yes.

Town Counsel please speak to the series of incidents in the Summer of 2012.

Town Counsel you spoke to lunging.

Mrs. Patricia Pendergast when she is outside with her dogs Luna would run and lunge at her.

Town Counsel where was Caitlin?

Mrs. Patricia Pendergast she was on her property.

Mrs. Patricia Pendergast 's dogs were not on a leash.

The properties abut with a wire fence separating them.

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Town Counsel asked the size of then lots.

Mrs. Patricia Pendergast and Ms. Caitlin both answered they are small lots.

Town Counsel asked how many times did Luna lunge?

Mrs. Patricia Pendergast more than a half dozen times.

Town Counsel any contact between Mrs. Patricia Pendergast and Luna

Mrs. Patricia Pendergast answered no, only when the dogs are out. She has never spoken to Caitlin about it.

Town Counsel asked to explain the anxiety and fear.

Mrs. Patricia Pendergast explained the rush of fear going through her body and stays indoors.

Town Counsel this was not reported to Town Officers?

Mrs. Patricia Pendergast answered no.

Town Counsel have you spoken to Ms. Caitlin Pendergast about it?

Mrs. Patricia Pendergast answered no.

September 8, 2013 Attack

Mrs. Patricia Pendergast stated that on September 8, 2013 she and her husband had returned home from an engagement and let dogs out, it was dark and she heard a yip and went to look and found Luna with the dog in her mouth, Mrs. Patricia Pendergast hit Luna and the dog let the dog go and when she turned around she saw Luna had the second dog in her mouth. Mrs. Patricia Pendergast then took both dogs to the New Hampshire Animal Hospital for treatment. The dog Teddie had a 4inch laceration on his chest and side; the dog Fred has a gash on his chest and side. Mrs. Pendergast gave pictures (Exhibit B). The medical bill was 1500.00 dollars.

Town Counsel asked if Mrs. Patricia Pendergast had any discussion with Ms. Caitlin Pendergast about payment for the medical bills after the last episode.

Mrs. Pendergast answered the first time she spoke to Mrs. Mary Pendergast, Caitlin's Mom, after the second time no. Anything further you would like to add

Town Counsel asked of Mrs. Patricia Pendergast no conversation regarding payment?

Mrs. Pendergast stated no. Only that it isn't easy to contact someone when the phone is not answered.

Mr. David Robson, Animal Control Officer

Mr. Robson is familiar with the incident of September 8, 2013 at first it was stated that it was a family matter and was not pursuing the complaint. On Monday morning September 9, 2013 he was informed of the attack and met with Mrs. Patricia Pendergast and viewed the dogs. Mr. Robson tried to contact Ms. Caitlin Pendergast. The second attempt was made and no one answered the door. While Mr. Robson was talking to Mr. Pendergast, Mrs. Patricia Pendergast's son, Mrs. Patricia Pendergast banged on Ms. Caitlin Pendergast's door, Mr. Robson told her not to do that and she left the property. Mrs. Marie Pendergast came out to speak to Mr. Robson at that time Mrs. Marie Pendergast to Mr. Robson that her well was shut off and would be reconnected when the dog is dead. Mr. Robson explained that he could not determine the euthanasia of the dog. Mr. Robson spoke to the neighbors and no one voiced they had any problems with Luna.

Town Counsel in the 2012 was the attack on her property, when spoken to Ms. Caitlin Pendergast, or occurred at any other location?

Mr. Dave Robson answered No .

Town Counsel was there any indication to you on how Luna got over to her neighbor?

Mr. Robson answered no.

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Town Counsel did she mention any kind of issue, tormented the owner or antagonize, or taunt, any statement that Patricia had antagonized?

Mr. Robson answered no.

Town Counsel asked if Mrs. Patricia Pendergast had any question of Mr. Robson?

Mrs. Patricia Pendergast said yes and then stated that she never said the word euthanized.

Town Counsel to Ms. Caitlin Pendergast any question to Mr. Robson. Ms. Caitlin Pendergast said no.

Selectman Lambert: Concern of the injuries of the Bichon, both dogs were attacked.

Mr. Robson I observed one dog was treated and the second only observed an IV mark and he was walking.

Selectwoman Puleo Mr. Robson when you took the statement on September 9, 2013 of the incident on September 8, 2013 that Patricia brought it up and never formally talked to Caitlin bout the prior attack. I was confirmed and the 2013 lunging incident was never brought up.

Police Report Exhibit D

Police Chief Richard Howe stated that two Police Department Officers investigated and has furnished copies of their reports.

The Chief gave a summary of the 8:435PM September 8, 2013 incident. Officer Ronan responded for an animal complaint of two 12lbs. dogs were attacked by a neighbor's dog. Both dogs showed injuries and distress. Mrs. Patricia Pendergast mentioned the 2012 incident. Ms. Caitlin Pendergast knew and asked the condition of the dogs. Ms. Caitlin stated that she was coming back from a walk with the Great Dane mix and she lost control of Luna who then ran off.

Lieutenant Woods visited Mrs. Patricia Pendergast, she had called and wanted to speak with an Officer. Mr. David Robson, Animal Control Officer could not be reached, he did make contact on September 10, 2013 he quarantined the dog, the protocol for the first incident and the Animal Control Officer could not remove the dog at this time. Ms. Caitlin Pendergast was sorry about her neighbor's dog but she was not going to get rid of her dog.

Town Counsel asked if the attack occurred on Mrs. Patricia Pendergast's property? Was there any statement to the Police Department if anyone antagonized Luna? Any mention of the incident in 2012 of the dog going through the window?

Chief Howe the attack occurred on Mrs. Patricia Pendergast's proterty and there was no mention of anyone antagonizing Luna or of the incident in 2012 that the dog went through a window.

The Board had no questions at this time.

Ms. Caitlin Pendergast's account of the above mentioned incidents.

Ms. Caitlin Pendergast, on May 14, 2012 was taking Luna for a walk, heard Mrs. Patricia Pendergast's dogs barking and running into the driveway. They are always trying to antagonize her two dogs. She did have Luna on the leash but she did get away and there was a fuss, Mrs. Patricia Pendergast's dogs have issues.

Town Counsel and of the lunging incidents in the summer of 2012?

Ms. Caitlin's Pendergast's account of the summer of 2012; when the small dogs come to the line barking, Luna would bark back, Luna is not allowed near the fence and she would remove Luna and bring her in the house. There are times when the small dogs would enter Ms. Caitlin Pendergast's property.

The September 8, 2013 incident; Ms. Caitlin Pendergast was walking her dogs, they were on a leash and the four small dogs ran into the back yard barking, Caitlin in her attempt to tighten the least so

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that Luna would not lunge the leash slipped from her hand and Luna ran and grabbed one of the dogs. Caitlin told Luna to drop the dog and she did. Mrs. Patricia Pendergast was yelling and shortly after the Police Officers arrived.

Town Counsel asked if she talk to the Police in 2012; or the Animal Control Officer about the incident?

Ms. Caitlin Pendergast said it did not occur on Mrs. Patricia Pendergast's property, did Caitlin state that Luna went through the screen. Caitlin stated never. On the 8th of September 2013 Caitlin gave a statement to the Animal Control Officer that the incident occurred in the street, Caitlin clearly stated she was in the street, also in her statement the dogs came barking and running and were aggressive, Caitlin is not sure what the exact word was.

Town Counsel asked if Caitlin see the injuries? Did Caitlin have any conversation with Mrs. Patricia Pendergast?

Ms. Catlin Pendergast stated no it was very dark and she did not speak to Mrs. Patricia Pendergast personally on through voice mail.

Town Counsel on May 14, 2012 how did the dogs left the premises? Ms. Caitlin Pendergast answered the driveway /road area between the shrubbery hedge.

Town Counsel asked if Mrs. Patricia Pendergast had any questions of Ms. Caitlin Pendergast?

Mrs. Patricia Pendergast answered no.

Town Counsel does the Board have any question of Ms. Caitlin Pendergast?

Board does not.

Town Counsel asked Mrs. Patricia Pendergast if had any statement factually relating to incidents?

Mrs. Patricia Pendergast rebutted she did not say the dog should e euthanized; the incidents did happen on her property; on the first incident Ms Caitlin Pendergast did state that Luna had gone through the screen and through the hedges when she came over to get her dog. The second incident the attack took place on Mrs. Patricia Pendergast's property, she saw the incident.

Ms. Caitlin Pendergast pointed out that Mrs. Patricia Pendergast is not using a leash.

Chairman Karyn Puleo asked for clarification from Mr. Robson. The first incident of May 14, 2012 was discussed at the time of the second incident, the parties involved did not mention to the to the Animal Control Officer where the incident happened, or any mention of going through the window?

Mr. Robson, Animal Control Officer, stated none; on the second incident did occur while walking

the dogs and Mrs. Patricia Pendergast's dogs began barking and coming at her, Mrs. Patricia Pendergast mentioned multiple times the dog should be euthanized. No mention to Animal Control Officer that she did retrieve her dog from Mrs. Patricia Pendergast's land.

Selectman Lambert regarding the incident of September 8, 2013 the small dogs Ted and Fred were both injured and hospitalized and both underwent surgery?

Mrs. Patricia Pendergast answered yes.

Selectman Lambert continued – one dog was visibly better the second day, the Animal Control Officer could have overlooked the injuries. Is the yard fenced? Other than the dog Luna does your dogs bark art any other dogs? Do they show aggressive behavior to others and have you observed your bite anyone else?

Mrs. Patricia Pendergast the hard does have some fencing, and yes they do. The dogs have not shown aggressive behavior nor have they bitten anyone; they get along with other dogs.

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Chairman Puleo asked Mrs. Patricia Pendergast that on September 8, 2013 you let your dogs out was the attack on the street? You saw the dog heard a yip and the big dog had the small dog in his mouth, were your dogs in site at all times?

Mrs. Patricia Pendergast stated it was dark and may have gone the riverside, the back door faces the river and the front door is on the street.

The Chairman thanked everyone and intertained a motion to close the evidentiary portion of the hearing.

The Board voted 5-0-0 on a motion by Selectman Reault, second Lambert to close the evidentiary portion of the hearing.

The Chairman called for a 5 minute recess. The Board recessed at 7:20PM.

The Board reconvened at 7:25PM.

The Chairman declared the evidentiary portion of the hearing is now closed, and the Board will not receive any further evidence, comments, or documents. The Board will now deliberate as to a decision.

Based on all credible evidence regarding the first incident of May 14, 2012, the Board finds.

The Board voted 5-0-0 that Luna did attack, bite and injure a dog named Fred.

The Board voted 4-0-1 that the attack occurred without justification.

The Board voted 5-0-0 that Luna was not protecting itself or its owner from an attack or assault.

The Board finds 4-0-1 that Luna was not being teased, battered, or assaulted.

The Board took no action on the finding that Luna did or did not breach an enclosure on Ms. Caitlin Pendergast's property.

The Board voted 3-1-0 that Luna is a dangerous dog.

The Board has no findings on the second incidents of the Summer of 2012.

Based on all credible evidence regarding the third incident of September 8, 2013 the Board finds.

The Board voted 5-0-0 that Luna did attack Fred and Teddie.

The Board voted 2-2-1 that Luna attack without justification.

The Board voted 2-2-1 that Luna was not protecting itself or its owner and/or keeper from an attack or assault.

The Board voted 2-2-1 that Luna was not being teased, battered, or assaulted.

The Board voted 3-0-2 that Freed and Ted did not breach an enclosure on the Caitlin Pendergast Property.

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The Board voted 3-0-2 that Luna is a nuisance dog.

7:55 PM

The Board took a 5 minute recess.

8:00 PM

The Board returned to open session. The Chairman will ask for a recommendation for a remedy to Luna's behavior.

Mrs. Patricia Pendergast would rather see the dog gone but since the Town cannot banish the dog she would recommend the dog be muzzled when outside.

Ms. Caitlin Pendergast would recommend the dog be muzzled.

The Police Chief and the Animal Control Officer recommends based on the information and for public safety that Luna be muzzled when outside due to difficulty in control the dog. When Luna leaves the dwelling she be muzzled.

The Board, on the first incident of May 14, 2012, voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to muzzle Luna in accordance with the provision of the Statues.

The Board, on the second incident of September 8, 2013, voted 4-0-1 on a motion by Selectman Reault, second by Selectman Lambert to muzzle Luna in accordance with the provision of the Statues.

Selectman Jackson finds it challenging due to complicated testimony found neither party was credible only found that one dog attack and did not find the other dogs a nuisance.

810 PM

The Chairman called for a 10 minute recess.

8:15 PM

The Board returned to open session.

4. Citizen/Business Time – No one came forward this evening.

Citizens or business owners may contact the Office of the Selectmen to request to address the Selectmen during citizen/business time. Citizens or business owners who have not contacted the Office of the Selectmen in advance may address the Board of Selectmen on matters of interest to the public for not more than five (5) minutes.

5. New Business

A. 7:15PM Pole Petition – 100 Lakeview Avenue

The Chairman called the hearing to order. The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to open the Verizon Pole Petition hearing.

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The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to waive the reading of the petition and the reading of the abutter's list.

The Town Administrator presented the petition for Verizon as their Representative, Joseph Gleason, was not able to attend this evening's hearing. The Administrator read Mr. Gleason's written/electronic report into the record. The Report states that Mr. Gleason could not be at this hearing because of a prior hearing engagement in another town. Mr. Gleason writes: In light of the foregoing, and per your instruction, I am submitting this written/electronic report relative to the Lakeview Avenue pole petition in the hopes that same will allow this matter to be heard as scheduled:

Verizon New England, Inc. (hereinafter "Verizon") on behalf of itself and National Grid seeks permission from the Board of Selectmen to relocate Pole 1/25 presently situated on the northerly side of Lakeview Avenue approximately four hundred sixty-two feet (462.2') westerly of the Marla Circle intersection twenty-five feet (25.0') in a westerly direction to the location as shown on the petition plan.

As reasons for this petition Verizon has been informed by National Grid that it will be commencing a pole upgrade in the Lakeview Avenue area of Tyngsborough, MA at some time in the near future (though no formal date has been set to commence the up-grade) and as part of this up-grade both Verizon and National Grid thought it prudent to relocate this particular pole as it is situated in the driveway of the premises at 102-104 Lakeview Avenue. As Tyngsborough is a Verizon pole set it is incumbent upon Verizon to represent this petition, but the upgrade is being initiated by National Grid. The relocation will result in the occupants of 102-104 Lakeview Avenue having unfettered access to their driveway. Lastly, if abutters and/or members of the Board of Selectmen have questions about this proposed upgrade I would recommend that such queries be directed to National Grid.

The Chairman asked if there were any abutters present who wished to speak for or against the petition. Mr. Paul Daigneau of 102 Lakeview Avenue came forward to speak in favor of the petition as the pole is his driveway and is a nuisance. No one came forward to speak against the petition. The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Curseaden to close the hearing.

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to approve the pole petition #737 as presented.

B. Deputy Police Chief – Review/Appoint

Police Chief Richard Howe is before the Board to recommend Lt. Christopher Chronopoulos be promoted to the rank of Deputy Chief effective Thursday January 2, 2014. Lt. Chronopoulos provided the Chief with a letter of intent, and his fellow officers support the Lieutenant for the position of Deputy Police Chief. Chief Howe spoke of the Lieutenant's experience as a patrol officer from 1985, his promotion to Sergeant in 1998 and then promoted to rank of Lieutenant in 2011. His accomplishments while on the department range from shift supervisor, second in command of SWAT as an executive officer for NEMLEC (Northeast Massachusetts Law Enforcement Council) where he supervised administrative and tactical operations. The Lieutenant has been our department's lead firearms instructor for over 20 years, our motor unit since the inception of the program and for the last few years he has been responsible for firearms licensing. As the Chief moved up from Deputy, he has given the Lieutenant numerous tasks which would be expected of him as the new Deputy Chief to be responsible for. He has not only completed these tasks as

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directed but he has proven his leadership abilities and excelled in each area leaving the Chief no doubt of his abilities and drive to succeed in an executive position; and the Lieutenant brings forward exactly what any Chief is looking for in a second in command. The Lieutenant spoke briefly of his accomplishments and his desire to serve as the next Deputy Police Chief.

The Board acting on the Chief's recommendation and supporting the promotion voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to appoint Lieutenant Christopher Chronopoulos as Tyngsborough's Deputy Chief effective Thursday, January 2, 2014.

Lieutenant Chronopoulos thanked the Board for their support in his appointment to Deputy. The Selectmen congratulated the Lieutenant and feel that the Chief made a great choice in his selection for Deputy and support his recommendation.

C. Sewer Inter-municipal Agreement

At their meeting of June 13th, the Sewer Commission reviewed drafts of IMAs for sewer flow with Lowell, Chelmsford, and Dracut. They voted to approve the agreement with Lowell but to continue reviewing the Chelmsford and Dracut Agreements.

At their meeting of October 24, 2013, the Sewer Commission voted to recommend the Board of Selectmen approve the IMA with Lowell. Upon approval by the Board, and the conclusion of review with Town Counsel, the IMA is to be signed at a ceremony on November 7th. Sewer Member Jeff Hannaford came forward and briefly spoke about the meetings that lead up to the agreements being voted on this evening. The Board of Selectmen voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to approve the Inter-Municipal Agreement with Lowell pending the resolution of minor items the Town Administrator is working on with Town Counsel.

D. One Day Special License – Greater Lowell Regional Vocational Technical School

The Greater Lowell Regional Vocational Technical High School Superintendent request a One Day Special License for All Alcoholic Beverages to be served at the Superintendent's Scholarship Fundraising Event on Wednesday December 4, 2013 with a snow date of Thursday December 5, 2013 from 5PM to 11PM for approximately 200 guests.

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Curseaden to approve the request for a one day special license as submitted.

E. Annual License Renewal – Review/Discuss

The Administrator made inquiries of nearby communities and based on those feedbacks the Administrator recommends no changes to the fee schedule at this time. The fee structure is in line for the economic times for the Town. If the Board wants to proceed not to renew two licenses the hearing would need to set up for December. The Board a discussion on license ownership, right now the license is considered an asset to the owner and when an establishment closes the license is part of the sale price. The Administrator will need to check the policy on ownership of the license and will also review the Sunday licenses to bring more in line with the weekday licenses. The board asks that the establishment submit yearly revenue information. And to also send out a Request for Comment Form to the Town Collector for a report of any outstanding tax payments.

6. Old Business

A. Street Acceptance / Road Construction - Discuss

At the Board's request the following information relative to the status of street acceptance and proposed planning for road construction over the next 20 years is submitted for the Board's review.
Street Acceptance:

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Last week an estimate was received to generate plans for 35 of the approximately 77 remaining unaccepted streets. The estimate was approximately \$160,000. We are currently working with the Planning Board's engineer and Town Counsel to identify if there is a less costly approach to the accepted streets, and filing of assets. If not, the Town will need to prepare to expend this amount to accept these streets. The Balance of 42 streets is broken down as follows: 1) streets with bond money held (18); and 2) streets listed as accepted through Chapter 90, that could not be confirmed with the Town Clerk's historical records (24); 1) streets with bond money held are now being reviewed for cost effectiveness; if the cost to pursue the bond money outweighs the bond money available, a recommendation may be made to forgo the pursuit, however we are working with Town Counsel to obtain as much bond money as possible. One option we are reviewing is a potential voluntary bond release program; 2) the street listed as accepted through Chapter 90, which have not been confirmed with the Town Clerk's historical records, have been reviewed. Given that the majority of the Town's past street acceptance oversight issues have been in administering the Subdivision Control Law, any streets appearing on the state Chapter 90 street listing which were constructed after 1955, will be removed from the state list and resubmitted, once they are laid out and approved by Town Meeting. The balance of streets, are proposed to remain in "accepted" status.

Road Construction:

Under current funding levels, with a Chapter 90 apportionment of \$374,763.00 per year, the following Capital Improvement have been outlined, to be completed over the next five years. This includes a carry-over of \$200,000.00 of uncommitted Chapter 90 funding and \$46,779.62 from the residents of Old Stonehill and Joco Road.

Project #1 Anderson Dr. Culvert year \$225,100.00 in 2017 (FY18); Project #2 Danforth Road (2/3rds of road) \$386,167.60 in 2015 (FY16); Project #3 Descheneaux Lane \$67,980.00 in 2014 (FY15); Project #4 Hillcrest Dr. (Jacques to cul-de-sac) \$76,489.00 in 2016 (FY17); Project #5 Joco Dr. (700' at Old Stonehill) \$72,100.00 in 2014 (FY15); Project #6 Old Kendall Road \$116,300.98 in 2018 (FY19); Project #7 Old Stonehill Road \$206,659.20 in 2014 (FY15); Project #8 Sherburne Avenue Engineering \$75,000.00 in 2014 (FY15); \$100,000.00 in 2015 (FY16); \$75,000.00 in 2016 (FY17); \$125,000.00 in 2017 (FY18); and \$125,000.00 in 2018 FY19); Project #9 Westford Road Culvert \$218,540.00 in 2016 (FY17); and Project #10 Crack Sealing \$25,000 in year 2014 (FY15) to 2018 FY(19).

This does not include improvements to the traffic intersections of Westford Road at Dunstable Road or Lakeview Road at Coburn Road, given that the studies have not completed. The above list also is contingent that major drainage work is not needed. Further, any utility work in disrepair, which is identified during reconnaissance, could delay road work to the following year. The above plan proposes to complete approximately 1.512 miles of road reconstruction, 2 culvert replacements and engineering needed to design a federal/state funded project (for the reconstruction of Sherburne Avenue) under the State Transportation Improvements Program (STIP). Again, this would be within existing projected funding sources.

Future Capital Improvements

In years 6-20, based on the current funding levels and inflation, the following work is projected for completion based on each road's condition. The list is provided alphabetically and is not prioritized because of future likely change in condition of some roads by the time that year 6 arrives.

Alden Street, Althea Avenue, Bridget Avenue, Bryants Lane, Butterfield Road, Chester Avenue, Faye Memorial Drive, Kendall Road Engineering, Lakeview Avenue (partial - 1/2), Lawrence Road, Long Pond

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TOWN OF TYNGSBOROUGH

Office of the Board of Selectmen

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Road (Parham Road to Town Line), Mascuppic Trail (Parham Rod to Dead End), Morgan Way, Mustang Road Culvert, Robins Circle and Shetland Circle.

The above list proposes to complete approximately 14 roads at a total of 5.028 miles of road reconstruction, 1 culvert replacement and engineering needed to design a federal/state funded project (for reconstruction of Kendall Road) under STIP.

If the Board wanted to expedite the work listed in years 6-20, by completing them between years 1-5 and additional \$5,000,000 about current funding levels would be required.

Finally, due to the condition of several of the roads in the 5-Year Capital Plan, we are recommending that the following streets be posted "pass at your own risk" – 1) Danforth Road; 2) hillcrest Drive; 3) Old Kendall Road; and 4) Sherburne Avenue. Some discussion followed, the Board thanked the Assistant Town Administrator for the extensive report.

7. Citizen/Business Time – No one came forward this evening

8. Correspondence

A list of correspondence will be included with approved meeting minutes per the requirements of the Massachusetts Open Meeting Law. Copies of correspondence may be requested from the Office of the Board of Selectmen.

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Jackson to accept the correspondence. The Board is aware of one piece of correspondence from MassHousing and that they pay attention the Town's Master Housing Plan on file with the Department of Housing and Community Development as they review the new proposed 40B subdivision for Tyngsborough.

9. Review of Weekly Warrants

The Weekly Warrants read this week are as follows: Warrant #18B for \$274,215.80 on 10/28/2013; Warrant # 19B for \$1,066,117.76 on 11/04/2013; Warrant #19P for \$813,289.76 on 11/4/2013.

10. Town Administrator's Report

- Response to Selectmen's Requests
- Budget

The Administrator is attempting to arrange a joint meeting with the Finance Committee regarding the budget for later in November or early December.

During the FY2013 audit process there has been a concern identified regarding the availability of funding in the recreation revolving and police detail accounts. We are pursuing this matter further and will keep the Board apprised.

Attached there is a copy of correspondence with our auditors regarding procurement-related question.

- Departmental Information

Attached is a copy of a report sent to the Board of Assessors regarding the 2013 Senior Tax Work-Off program.

Attached is a copy of the Administrator's proposed response to MassHousing regarding their approval letter for the Tyngsboro Crossing project. The Board supports the Administrator's response to Mass Housing's letter.

Attached is a copy of the Council on Aging's request for Cultural Council funds. It is pending.

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- Contracting/Procurement

Attached is a copy of the annual state Cultural Council funding contract.

Attached is a contract amendment (reduction) for the Independence Road reconstruction project. As the Board is aware, we have tried for a number of months to develop a plan to potentially complete the Wash Station project using in-house resources. Unfortunately, after significant discussion and the vetting of multiple options, in my opinion the work is simply too time consuming and, in some areas complex, for the Town to responsibly complete the project with in-house resources. Therefore, I am recommending that the Town re-advertise the entire project including the subcontracted (electrical and plumbing) work as alternates. It is possible that the time of year (end of construction season) may play to the Town's advantage in terms of bid amounts. If bids exceed the available appropriation (which they likely will), one possible alternative is the use of Chapter 90 funding to fund the difference. We would not know for sure the amount until the project was bid, however I believe at this point this is an avenue that we should pursue. I am requesting approval to expend funds from the appropriation to update the bid specs and to re-advertise the project. The appropriation balance is approximately \$72,000. The Board voted 5-0-0 on a motion by Selectman Jackson, second by Selectman Lambert to authorize the Town Administrator to expend Chapter 90 Funds for the completion of the Highway Garage Wash Station within the appropriation set by Town Meeting Vote.

- Other

Attached is a report regarding communication with a resident regarding trash pickup. Attached is a copy of correspondence by the Assistant Town Administrator with a resident in need. Attached is a copy of correspondence from the Sheet Metal Workers' Union, as well as my response. Attached is a copy of interesting information regarding NMCOG that was provided at their 50th anniversary dinner.

11. Selectmen's Reports

The Selectmen had no reports this evening. The Board sends their congratulations to the Boston Red Sox on their winning of the world series.

12. Executive Session – There was no Executive Session this evening.

13. Adjournment

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to adjourn the meeting at 9:35PM.

Respectfully submitted

Therese Gay
Admin Assistant

Approved on: Monday November 18, 2013

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Correspondence - Monday November 18, 2013

[illegible]



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Board of Selectmen Meeting Notice

Monday, November 4, 2013 at 6:00 P.M.

Community Room, Town Offices, 25 Bryants Lane

The listing of matters are those reasonable anticipated by the Chairman which may be discussed at the meeting. Not all items listed may in fact be discussed, and other items not listed may also be brought up for discussion to the extent permitted by law.

1. 6:00 PM Open Meeting/Pledge of Allegiance/Board Introduction/Read Agenda

2. Meeting Minutes

- A. Regular Session Meeting Minutes for Approval
 - 1. Monday, October 7, 2013 – Regular Session
 - 2. Monday, October 21, 2013 – Regular Session
- B. Regular Session Meeting Minutes for Approval but not Release
 - 1. Monday, October 7, 2013 – Executive Session
 - 2. Monday, October 21, 2013 – Executive Session

3. 6:05 PM Dog Hearing – Pendergast

4. Citizen/Business Time

Citizens or business owners may contact the Office of the Selectmen to request to address the Selectmen during citizen/business time. Citizens or business owners who have not contacted the Office of the Selectmen in advance may address the Board of Selectmen on matters of interest to the public for not more than five (5) minutes.

5. New Business

- A. 7:15PM Pole Petition – 100 Lakeview Avenue
- B. Deputy Police Chief – Review/Appoint
- C. Sewer Inter-municipal Agreement
- D. One Day Special License – Greater Lowell Regional Vocational Technical School
- E. Annual License Renewal – Review/Discuss

6. Old Business

- A. Street Acceptance / Road Construction - Discuss

7. Citizen/Business Time

Citizens or business owners may contact the Office of the Selectmen to request to address the Selectmen during citizen/business time. Citizens or business owners who have not contacted the Office of the Selectmen in advance may address the Board of Selectmen on matters of interest to the public for not more than five (5) minutes.

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8. Correspondence

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9. Review of Weekly Warrants

10. Town Administrator's Report

- Response to Selectmen's Requests
- Budget
- Departmental Information
- Contracting/Procurement
- Other

11. Selectmen's Reports

12. Executive Session

- A. Exemption Three – To discuss strategy with respect to collective bargaining and litigation because an open meeting may have a detrimental effect on the bargaining and litigation position of the Board, and the Chair so declares –Clerical Union; Mid-Managers Union; Police Union

13. Adjournment

Future Meetings

Monday, November 18th, 2013 at 6:00 PM at Tyngsborough Town Offices, 25 Bryants Lane

Monday, December 2nd, 2013 at 6:00 PM at Tyngsborough Town Offices, 25 Bryants Lane

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